

REMARKS

This Response is submitted in reply to the Office Action dated April 26, 2007. Claims 1 to 60 are pending. Claims 36 to 43 have been canceled without prejudice or disclaimer. The Commissioner is hereby authorized to charge deposit account 02-1818 for any fees which are due in connection with this Response.

The Office Action rejected:

- (a) Claims 1, 11, 21, 22, 35, 44 to 47, 51, 52, and 57 to 60 under 35 U.S.C. §112, first paragraph, for allegedly including subject matter not described in the Specification; and
- (b) Claims 1-22, 35 and 44-60 under 35 U.S.C. §112, first paragraph, for allegedly lacking enablement.

In particular, the Office Action alleges that the terms "non-selected", "non-provided" and "un-revealed" are not supported by the Specification. MPEP §2163.02 clearly explains that the subject matter of the claim need not be described literally (i.e., using the same terms or *in haec verba*) in order for the disclosure to satisfy the description requirement. Applicants submit that support for these terms may at least be found in the Specification at, for example, page 36, lines 10-17 which discloses the following:

That is, the gaming device determines, based on the number of obtained awards in the first round and the total number of available awards, the probability that the player will obtain a modifier in the subsequent round. In this case, the gaming device subtracts the number of obtained awards in the first round 74 from the total number of available awards in the first round to determine the number of non-obtained awards 76. **A probability of obtaining a favorable outcome in the subsequent round is based on the determined number of non-obtained awards 78.** [Emphasis Added]

Applicants thus respectfully submit that these rejections should be withdrawn and that Claims 1-22, 35 and 44-60 are in condition for allowance.

The Office Action rejected Claims 36 and 39 and Claims 42 and 43 which depend therefrom respectively under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No.

5,931,467 to Kamille ("*Kamille*"). Applicants disagree with and traverse this rejection. However, to place the instant application in condition for allowance, Applicants have canceled Claims 36 to 43 without prejudice or disclaimer. Applicants reserve the right to file any or all of these claims in one or more continuing applications.

The Office Action rejected Claims 1-10, 21, 23-26 and 31 under 35 U.S.C. §103(a) as being unpatentable over *Kamille* in view of U.S. Patent No. 6,217,448 to Olsen ("*Olsen*"). The Office Action also rejected Claims 11 to 20, 22, 27 to 30, 33 to 34 and 44 to 60 under 35 U.S.C. §103(a) as being unpatentable over *Kamille* in view of U.S. Patent No. 6,190,255 to Thomas et al. ("*Thomas*") and in further view of *Olsen*.

The Office Action acknowledged that *Kamille* does not disclose a determination of whether to provide a player a winning outcome of a second round, wherein the determination is based exclusively on the number of non-selected outcomes of the second round as in Claims 1 and 11. The Office Action also acknowledges that *Kamille* does not disclose a determination of whether to provide a player the positive outcome of the second round, wherein the determination is based exclusively on the number of non-selected outcomes of the second round as in Claims 21 and 22. The Office Action further acknowledges that *Kamille* does not disclose a range of different independently determined values of the first round as in Claims 23, 27, 31 and 33. To attempt to cure these deficiencies of *Kamille*, the Office Action combines *Olsen* with *Kamille*. For at least the following reasons, Applicants respectfully submit that such a combination is improper and that, even if *Olsen* is properly combinable with *Kamille*, the combination of these references do not teach each and every element of the claimed invention.

Olsen appears to disclose a method for providing a bonus jackpot during a bonus mode among a system of linked gaming machines. Certain gaming machines are selected to be eligible for a bonus jackpot payout. Each additional sum paid over the standard payout is subtracted from the bonus pool. When the bonus pool has been depleted, the end of the bonus mode is triggered. Although the end of the bonus mode is triggered, bonus jackpot payouts may continue to be deducted from the bonus pool until each selected gaming machine has completed play and has been paid any bonus jackpot payout. Such continued bonus jackpot payouts may exceed the bonus pool

amount. The reset value of the bonus pool for the next bonus mode is then determined based on the bonus pool amount (even if negative) at the end of the previous bonus mode. Contributions are then entered into the bonus pool beginning at the reset value of the bonus pool. When such bonus pool grows large enough, the next bonus mode is triggered. Col. 12, lines 25-45.

1. *Olsen* is not properly combinable with *Kamille*.

Page 9 of the Office Action states that it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify *Kamille* with “the continuing bonus round feature” of *Olsen*. As described above, the continuing bonus round feature of *Olsen* involves determining a reset value for a subsequent bonus mode based on the bonus pool amount at the end of the previous bonus mode. *Kamille* discloses a game piece with play areas which include void symbols, teaser prizes with a directional, and a larger prize, all of which are fixed and remain fixed during play of the game. *Kamille*, column 10, lines 41-59. Regardless of the number of play areas of a game piece picked by a player in *Kamille*, any value associated with each play area remains the same. The value is not reset between moves of the player. There is, therefore, no reason for one of skill in the art to modify *Kamille* with *Olsen* when the values in *Kamille* are predetermined and fixed. For at least these reasons, Applicants respectfully submit that one of skill in the art would not have been motivated to combine *Olsen* with *Kamille*.

2. *Olsen* and *Kamille* do not teach each and every element of the claimed invention.

The gaming device of Claim 1 includes, for example, a processor operable with a display device to determine whether to provide a player the winning outcome of a second round based on one of the selected probabilities of providing the winning outcome of the second round. The probability is selected based exclusively on the number of non-selected outcomes of the first round. The Office Action interprets *Olsen* to disclose that

the winnings offered in a bonus round is based on the amount left in the bonus pool after the previous bonus round. Page 9 of the Office Action appears to equate such amount left in the bonus pool after the previous bonus round as the number of non-selected outcomes of a first round. *Olsen*, however, discloses that the end of the bonus mode is triggered when the bonus pool has been depleted suggesting that all outcomes are selected and that there is no amount left in the bonus pool. In fact, the awards in *Olsen* continue to be subtracted from the bonus pool driving the pool even more negative. *Olsen*, column 12, lines 27-37.

Furthermore, even if there is an amount left in the bonus pool in *Olsen*, the probability of whether a player in the subsequent bonus mode is offered winnings in that mode is not based on the amount left in the bonus pool as suggested in the Office Action. The amount left in the bonus pool appears to only determine the contributions necessary to grow the bonus pool large enough to trigger the next bonus mode. For example, if the bonus pool must have 100 credits in order to trigger a bonus mode, and 10 credits are left in the bonus pool after the previous bonus mode, then the 10 credits merely determines that contributions totaling 90 credits are necessary to trigger the next bonus mode. Therefore, *Olsen*: (a) not only does not disclose that the winnings offered in a bonus round are based on the amount left in the bonus pool after the previous bonus round, but *Olsen* (b) also does not disclose determining whether to provide a player the winning outcome of a second round based on selecting one of the different probabilities of providing such winning outcome based exclusively on the number of non-selected outcomes of the first round as in the claimed invention.

Additionally, *Olsen* does not disclose a range of different independently determined values of a first round as in Claims 23, 27, 31 and 33. As stated above, the Office Action acknowledges that *Kamille* does not disclose a range of different independently determined values of the first round. The Office Action attempts to equate a random jackpot start value with a range of different independently determined values of a first round. However, *Kamille*, alone, or in combination with *Olsen* does not disclose a range of different independently determined values of a first round wherein the greater the indicated value of the first round, the lower the selected probability of obtaining a

modifier of a second round as in Claims 23 and 27 or the higher the selected probability of obtaining a modifier of a second round as in Claim 31 and 33. *Kamille*, alone, or in combination with *Olsen* also does not disclose providing a player the indicated value of the first round if the determination is not to provide the player the modifier of the second round or modifying the indicated value of the first round by the modifier of the second round if the determination is to provide the player the modifier of the second round. No such relationships are taught or suggested in either reference. Accordingly, Applicants respectfully submit that *Olsen* fails to cure the deficiencies of *Kamille* and that Claims 1-10, 21 23-26 and 31 are in condition for allowance.

The Office Action relies on *Thomas* to cure the deficiencies of *Kamille* and *Olsen* as to Claims 11 to 20, 22, 27 to 30, 33 to 34 and 44 to 60. However, *Thomas* fails to cure the deficiencies of *Kamille* and *Olsen* set forth above. Therefore, Applicants respectfully submit that Claims 11 to 20, 22, 27 to 30, 33 to 34 and 44 to 60 are in condition for allowance.

The Office Action rejected Claim 35 under 35 U.S.C. §103(a) as being unpatentable over *Kamille* in view of U.S. Patent No. 6,485,367 to Joshi ("*Joshi*") and in further view of *Olsen*. For at least the reasons sets forth above, *Kamille* and *Olsen* fail to teach or suggest, if a player rejects the selected outcome of a first round, determining whether to provide the player a positive outcome of a second round according to a selected probability based exclusively on the number of non-selected outcomes of the first round. Even if *Joshi* can be properly combined with *Kamille* and *Olsen*, *Joshi* fails to cure the deficiencies of *Kamille* and *Olsen* set forth above and in Applicants' Remarks made of record. Therefore, Applicants respectfully submit that Claim 35 is in condition for allowance.

The Office Action maintains the rejection of Claims 37, 38, 40 and 41 under 35 U.S.C. §103(a) as being unpatentable over *Kamille* in view of U.S. Patent No. 6,033,307 to Vancura ("*Vancura*"). For the reasons made of record, *Vancura* fails to cure the deficiencies of *Kamille*. Furthermore, Claims 37 and 38 and Claims 40 and 41 depend from independent Claims 36 and 39, respectively, which are in condition for allowance as

discussed above. Therefore, Applicants respectfully submit that Claims 37, 38, 40 and 41 are also in condition for allowance.

An earnest endeavor has been made to place this application in condition for allowance and such allowance is courteously solicited. If the Examiner has any questions related to this Response, Applicants respectfully submit that the Examiner contact the undersigned.

Respectfully submitted,

BELL, BOYD & LLOYD LLC

BY



Adam H. Masia
Reg. No. 35,602
Customer No. 29159

Dated: June 26, 2007